

Brief Guide to Automatic Enrolment (for LGPS and TPS)

Introduction

The changes introduced through the [Pensions Act 2008](#) impact on every UK employer. This brief guide provides a brief outline of what employers who participate in the Local Government Pension Scheme (LGPS) and / or the Teachers' Pension Scheme (TPS) are required to do to comply with automatic enrolment. It also provides links to more detailed information and guidance.

Contractual enrolment

Under the regulations that govern the LGPS and TPS, most new employees are contractually enrolled into the LGPS or TPS.

LGPS

All eligible employees under the age of 75 are contractually enrolled into the LGPS on appointment apart from those employees who have a contract that is for less than 3 months duration (but they can opt into the LGPS).

TPS

All teachers aged 16 or over and under the age of 75 are contractually enrolled into the TPS on appointment with the exception of:

- part-time teachers who also have a full-time teaching contract
- current part-time teachers under normal pension age who retired on the grounds of ill-health prior to 1 April 1997 and are still in receipt of their ill health pension

These two categories of teachers must be enrolled in the LGPS (but, in the case of those in the second category, only until they attain normal pension age, at which time they must be enrolled into the TPS).

Automatic enrolment

Sitting alongside the regulations governing the LGPS and the TPS, and which deal with contractual enrolment, is the Pensions Act 2008. This requires that employers, from their staging date, continually monitor their workforce and take certain actions (including automatic enrolment) at specified times. The remainder of this brief guide sets out what employers need to do to comply with the requirements of the Pensions Act 2008.

From 1 July 2012 the following safeguards were introduced to protect employees:

- An employer must not, as part of the recruitment process, make any suggestion that success in applying for a job may be conditional on opting out of the pension scheme
- An employer cannot seek to induce a member of either the LGPS or the TPS to opt out of the scheme
- An employer cannot treat a worker unfairly or dismiss a worker on account of the worker trying to enforce their automatic enrolment rights

More information: [the Pensions Regulator's website](#); and paragraphs 106 to 108 of the [LGPC's Automatic Enrolment Guide](#).

Starting from 1 October 2012

- Employers are required, from their staging date, to automatically enrol into an automatic enrolment scheme, any of their eligible jobholders who have opted out of, or not joined, the LGPS or TPS (unless the employer decides to apply postponement or transitional delay). Further information on these terms can be found later in this brief guide
- Employees cannot complete a form to opt out of membership of the LGPS or TPS before starting employment

The LGPS and TPS Regulations have been amended from 1 October 2012, as shown below, to comply with automatic enrolment.

- [The Local Government Pension Scheme \(Miscellaneous\) Regulations 2012](#):
 - provide that employees with a contract of employment of less than 3 months can opt to join the LGPS
 - fundamentally change the way employees of admission bodies join the LGPS, and
 - provide that employees cannot complete a form to opt out of membership of the LGPS before starting employment

More information: Paragraph 3 of LGPC [Circular 262](#)

- [The Teachers' Pensions \(Amendment\) \(No 2\) Regulations 2012](#)
 - reduce the minimum age for membership of the TPS from 18 to 16, and
 - provide that teachers in multiple employments can opt in / out of individual contracts

Identify your staging date

- An employer's staging date is determined by the number of people in its largest PAYE scheme on 1 April 2012
- For a full list of staging dates between 1 October 2012 and 1 February 2018 visit the [Pensions Regulator's website](#)

- To determine your staging date if you are an employer who shares a PAYE scheme or if you are a maintained school or an academy, please read paragraphs 25-27 of the [LGPC's Automatic Enrolment Guide](#)
- An employer who, on 1 April 2012, had less than 50 workers and had, or was part of, one or more PAYE schemes in which there were 50 or more persons, can choose to use the alternative 'staging date' shown in the final column of the Table at Annex 2 of the [LGPC's Automatic Enrolment Guide](#)
- You can bring your staging date forward. If you have a February or March 'staging date' you may wish to bring it forward to avoid problems with year-end refund of contributions for employees automatically enrolled in February or March but who do not opt out until April. Further information can be found in paragraph 30 of the [LGPC's Automatic Enrolment Guide](#)

Assess your workforce

Once an employer knows their staging date they need to consider how to assess their workforce to identify the different categories of worker.

A table summarising the different categories of worker, which include eligible jobholders, non-eligible jobholders and entitled workers for automatic enrolment purposes can be found on [page 8 of this brief guide](#).

Communicate with your workforce

Employers must write to all their employees at their staging date. Communication must be direct and there are deadlines that are set out in the Pensions Act that must be met:

- Existing members who are eligible jobholders or non-eligible jobholders – send communication within 2 months after the employer's staging date
- Existing members who are entitled workers - there is no legal requirement to write to these members but it is best practice to send them the same letter as is being sent to eligible jobholders or non-eligible jobholders who are in the LGPS
- Eligible jobholders, non-eligible jobholders and entitled workers who are not active members of the LGPS or TPS – send communication within 1 month after the employer's staging date

LGPS

Annex 7 of the [LGPC's Automatic Enrolment Guide](#) has flowcharts to help you determine the process and template letters to use when communicating with your workforce including the specified information which must be provided to employees as defined in the Pensions Act 2008.

TPS

Template letters can be found on the [TPS](#) website.

Template letters can also be found on the [Pension Regulator's website](#).

Enrolment on your staging date (for employees who are eligible for membership of the LGPS or TPS but are not active members of the scheme)

LGPS

- Eligible jobholders with a contract for 3 months or more. Either:
 - automatically enrol into the LGPS, and tell them that they have been automatically enrolled and that they have the right to opt out, or
 - do not automatically enrol into the LGPS, and issue a transitional delay notice notifying the employee that you are delaying automatic enrolment until 1 October 2017 but they can opt into the LGPS before then if they wish to do so.
- Eligible jobholders with a contract of less than 3 months duration
 - postpone automatic enrolment by issuing a 3 month postponement notice but inform them they have the right to opt into the LGPS if they wish to do so, or
 - issue a transitional delay notice notifying the employee that you are delaying automatic enrolment until 1 October 2017 but they can opt into the LGPS before then if they wish to do so.
- Non-eligible jobholders and entitled workers with a contract for 3 months or more – write to them notifying them of their right to join the LGPS.
- Non-eligible jobholders and entitled workers with a contract of less than 3 months duration – issue a 3 month postponement notice but inform them they have the right to opt into the LGPS if they wish to do so.

Template letters for use in all of the above scenarios can be found in the [LGPC's Automatic Enrolment Guide](#).

- TPS
Eligible jobholders. Either:
 - automatically enrol into the TPS, and tell them that they have been automatically enrolled and that they have the right to opt out, or
 - do not automatically enrol into the TPS, and issue a transitional delay notice notifying the teacher that you are delaying automatic enrolment until 1 October 2017 but they can opt into the TPS before then if they wish to do so.
- Non-eligible jobholders and entitled workers
Write to them notifying them of their right to join the TPS.

Postponement

Postponement suspends the employer's duty to both assess their workers and to automatically enrol eligible jobholders. It can only be used:

- In respect of existing workers who, as at the employer's staging date, are not members of the LGPS or TPS because they have opted out of, or not opted to join, the LGPS or TPS or
- In respect of new workers who start on or after the employer's staging date and who are eligible for membership of the LGPS but have a contract of employment that is for less than 3 months or

- On the date that a worker who has opted out of, or not opted to join, the LGPS or TPS meets the criteria to be an eligible jobholder after the employer's staging date

Postponement can be from 1 day and up to maximum of 3 months. An employee can only have one postponement notice at any given time in respect of a contract and notices cannot overlap or be issued consecutively. The employee has the right to opt into the LGPS or TPS during the postponement period.

More information: [The Pensions Regulator's website](#), and paragraph 47 of the [LGPC's Automatic Enrolment Guide](#).

Transitional Delay

Employers have the option to apply the transitional delay period in order to put back the date for 'automatic enrolment' for any or all eligible jobholders who:

- joined their employer before the employer's staging date
- are entitled to be an active member of the LGPS or TPS and
- are not active members of the LGPS or TPS on the employer's staging date.

Transitional delay is fixed until 30 September 2017 (unless the conditions above cease). It does not change the employer's staging or re-enrolment dates.

Employers must write to or email all eligible jobholders to whom they apply the transitional delay by, at the latest, one month after their staging date. A template letter (letter T) for those eligible for membership of the LGPS is available in Annex 7 of the [LGPC's Automatic Enrolment Guide](#). A template for this notice is also available on [the Pension Regulator's website](#).

On 1 October 2017 employers must automatically enrol all those to whom they applied transitional delay provided the worker is still an eligible jobholder at that time and has not already opted into the LGPS or TPS.

Opting out

LGPS

An employee who is either contractually or automatically enrolled into the LGPS can only opt out after they have been brought into the scheme i.e. they cannot complete an opting out form before they have been brought into the scheme. That does not mean that contributions have to be collected from pay before they can opt out. It merely means that they cannot sign and date the opt out form until on or after the day they are enrolled.

An option out can only be made on a prescribed opt out form which, after the employer's staging date, can only legally be obtained from the Pension Fund administering authority (i.e. the employer cannot hand out an opting out form).

An employee with more than one job can opt out of one, all or some of the jobs.

The opt out form must be sent to the employer to action on the payroll and the employer must notify the Pensions Section of the Pension Fund administering authority that the person has opted out.

If the person opted out within 3 months of being enrolled they are to be treated as never having been a member of the LGPS in that employment, the employer must refund the employee contributions to the employee within 1 month of receipt of the opt out form (or, if the payroll has already been run, by the end of the next pay period), and must reduce the next contribution payover to the Pension Fund by the amount of the refunded employee contributions and by the amount of employer contributions already paid to the Pension Fund in respect of that employee.

TPS

The procedures are the same as for the LGPS except that for any references to “Pensions Section”, “Pension Fund” or “administering authority” read “Teachers Pensions”; and for any reference to “LGPS” read “TPS”.

Monitoring from your staging date

As from their staging date, employers must monitor, pay reference period by pay reference period, what category of worker an employee falls within in relation to their contract of employment i.e. whether they are an eligible jobholder, a non-eligible jobholder or an entitled worker. An employee with more than one contract could be in a different category for each contract.

If an employee who is not in the LGPS or TPS becomes an eligible jobholder for the first time since the employer’s staging date (i.e. because their earnings have increased or they have attained age 22) automatically enrol the person into the LGPS or TPS from the beginning of the pay reference period when their earnings increased to make them an eligible jobholder or from the date they attained age 22 and send them a letter within 1 month telling them that they have been automatically enrolled, their enrolment date, and that they have the right to opt out.

If an employee who is not in the LGPS or TPS becomes a non-eligible jobholder or entitled worker for the first time since the employer’s staging date (i.e. because their earnings have changed) do not automatically enrol the person into the LGPS or TPS but send them a letter within 1 month telling them that they have the right to opt into the LGPS or TPS.

If an employee has been in the LGPS or TPS whilst an eligible jobholder but then opts out there is no further requirement to monitor them but action may need to be taken at the employer’s re-enrolment date (see next page).

Re-enrolment

An employer's re-enrolment date is the 3rd anniversary of the employer's staging date (or a date chosen by the employer which can be up to 3 months either side of the 3rd anniversary date).

On the employer's re-enrolment date the employer must re-enrol any eligible jobholders who are not currently active members of the LGPS or TPS except for those eligible jobholder's who had opted out of the LGPS or TPS in the 12 months immediately preceding the employer's re-enrolment date.

More information: Paragraphs 72 to 77 of the [LGPC's Automatic Enrolment Guide](#).

Other things to remember

Register

Employers must register with the Pensions Regulator within 4 months of their staging date and of their subsequent re-enrolment dates.

More information: the [Pensions Regulator website](#)

Record Keeping

Employers must keep comprehensive records about their employees and the scheme they have used to meet their automatic enrolment obligations.

Records must be kept for 6 years.

Employers must keep opt out forms for 4 years but, subject to Data Protection legislation, it is recommended that these are retained for life.

More information: [the Pensions Regulator's website](#)

Compliance

The Pensions Regulator has powers to impose penalties for:

- Failure to comply with duties
- Non-compliance with contravention notices

More information: Read paragraph 109 to 123 of the [LGPC's Automatic Enrolment Guide](#) and [the Pensions Regulator website](#).

The different categories of worker

All workers will fall into one of three categories:

- eligible jobholders,
- non-eligible jobholders
- entitled workers.

A table summarising the different categories of worker for 'automatic enrolment' purposes is set out below.

The category into which a worker falls is determined by their age and earnings.

	Age	16 - 21	22 - <SPA*	SPA* - <75
Earnings**				
Under lower earnings threshold (£5,668♦)		Entitled worker		
Between £5,668♦ and £9,440⌘		Non-eligible jobholder		
Over earnings trigger for automatic enrolment (£9,440⌘)		Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder
* State Pension Age ** Earnings: separate contracts treated separately ♦ To align with National Insurance contributions lower earnings limit ⌘To align with the PAYE threshold				

The values per pay reference period for 2013/14 are:

Pay reference period	Lower earnings threshold p.a.	Earnings trigger for automatic enrolment
Annual	£5,668.00	£9,440.00
6 months	£2,834.00	£4,720.00
3 months	£1,417.00	£2,360.00
1 Month	£473.00	£787.00
4 weeks	£436.00	£727.00
Fortnight	£218.00	£364.00
1 week	£109.00	£182.00

Resources

The Pensions Regulator

Guidance is available online at the [Pension Regulator's website](#). As well as a beginner's guide and online tools, 9 different areas of guidance are available.

LGPS

The [LGPC's Automatic Enrolment Guide](#) sets out how the provision within the automatic enrolment legislation interacts with the LGPS. It also contains a number of template letters for employers to use and flowcharts to assist employers through the automatic enrolment process.

Teachers' Pensions toolkit

TP has produced a [toolkit](#) to support employers implementing automatic enrolment. The pack comprises communication and implementation packs, FAQs and template letters to send to your teachers.

Department of Work and Pensions (DWP)

A workplace pension toolkit is available on the [DWP website](#) which holds information and documents explaining automatic enrolment in more detail.

Contact Details

For queries regarding this brief guide please contact:

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Glossary

Automatic enrolment scheme:

A pension scheme is an 'automatic enrolment' scheme in relation to a *jobholder* if -

- it is an occupational pension scheme that has its main administration in the UK
- it is a *qualifying scheme* in relation to the *jobholder*
- no provision of the scheme prevents the employer from 'automatically enrolling' any *eligible jobholder* who meets the requirements for 'automatic enrolment' or prevents a *non-eligible jobholder* from opting in to the scheme
- no provision of the scheme requires the *jobholder* to express a choice in relation to any matter (e.g. about where their contributions should be invested), or to provide any information, in order to become or remain an active member (e.g. to complete an application form to join the scheme or to give consent to joining the scheme)

Contract of employment:

This means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

Earnings:

This is the sum of any of the following descriptions that are payable to the person in connection with the person's employment –

- salary, wages, commission, bonuses and overtime
- statutory sick pay under Part 11 of the Social Security Contributions and Benefits Act 1992 (c. 4)
- statutory maternity pay under Part 12 of that Act
- ordinary statutory paternity pay or additional statutory paternity pay under Part 12ZA of that Act
- statutory adoption pay under Part 12ZB of that Act
- sums prescribed for the purposes of section 13 of the Pensions Act 2008

Eligible jobholder:

This is a *worker* –

- who is working or ordinarily works in Great Britain under the worker's contract, and
- who is aged at least 22 and under State Pension Age, and
- to whom earnings of more than the annualised equivalent of £9,440 are payable by the employer in the relevant pay reference period. It should be noted that if a worker has genuinely separate contracts then the earnings from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the worker is an entitled worker, a non-eligible jobholder or an eligible jobholder. Information and examples on how to determine earnings in a pay reference period can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website

Entitled worker:

This is a *worker* –

- who is working or ordinarily works in Great Britain under the *worker's* contract, and
- who is aged at least 16 and is under age 75, and
- to whom *earnings* of less than the annualised equivalent of £5,668 are payable by the employer in the relevant *pay reference period*. It should be noted that if a *worker* has separate contracts then the *earnings* from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the *worker* is an *entitled worker*, a *non-eligible jobholder* or an *eligible jobholder*. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website

Jobholder:

This is a term that covers both *eligible jobholders* and *non-eligible jobholders*.

Non-eligible jobholder:

This is a *worker* –

- who is working or ordinarily works in Great Britain under the *worker's* contract, and
- who is aged at least 16 and is under age 75 and to whom annualised equivalent *earnings* of £5,668 or more but less than or equal to £9,440 are payable by the employer in the relevant *pay reference period*, or
- who is aged at least 16 and under age 22, or has attained *State Pension Age* and is under age 75, and to whom annualised equivalent *earnings* of more than £9,440 are payable by the employer in the relevant *pay reference period*. It should be noted that if a *worker* has separate contracts then the *earnings* from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the *worker* is an *entitled worker*, a *non-eligible jobholder* or an *eligible jobholder*. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website

Pay reference period:

This is the person's normal pay period i.e.

- a week in the case of a person who is paid their regular wage or salary weekly, or
- in the case of a person who is paid their regular wage or salary by reference to a period longer than a week, that period (e.g. a month if the person is paid monthly). For example, you may pay your employees on the 15th of January but if the payment is for the whole of January the *pay reference period* will be the 31 days for the whole month of January

Qualifying scheme:

A contracted out defined benefit pension scheme is a *qualifying scheme* in relation to a *jobholder* if:

- the scheme is an occupational pension scheme
- the scheme is a registered pension scheme with HMRC for tax purposes under Chapter 2 of Part 4 of the Finance Act 2004, and
- while the *jobholder* is an active member, the *jobholder* is in contracted-out employment i.e. a certificate has been issued in respect of the *jobholder* under section 7(1) of the Pension Schemes Act 1993 stating that the employment of the *jobholder* is contracted-out employment by reference to the scheme

State Pension Age:

The State pension age is currently age 65 for men. The State pension age for women is currently being increased to be equalised with that for men. The Government has announced that it will speed up the pace of State pension age equalisation for women, so that women's State pension age will reach 65 by November 2018.

State pension age equalisation timetable for women

Date of Birth	New State Pension Age
Before 6 April 1950	60
6 April 1950 - 5 April 1951	In the range 60 - 61
6 April 1951 - 5 April 1952	In the range 61 - 62
6 April 1952 - 5 April 1953	In the range 62 - 63
6 April 1953 - 5 August 1953	In the range 63 - 64
6 August 1953 - 5 December 1953	In the range 64 - 65

The State pension age will then increase to 66 for both men and women from December 2018 to October 2020.

Increase in State pension age from 65 to 66 for men and women

Date of Birth	New State Pension Age
6 December 1953 - 5 October 1954	In the range 65 – 66
After 5 October 1954	66

Under current legislation the State pension age is due to rise to 67 between 2034 and 2036 and to 68 between 2044 and 2046. However the government has announced plans to revise the legislation so that the date when the State Pension Age rises to 67 is between 2026 and 2028 and that rises above age 67 will be linked to increases in life expectancy. Information on the State Pension Age can be found on the [Direct Gov](#) website.

Teacher:

Includes all employment pensionable under the Teachers' Pension Scheme.

Worker:

This means an individual who ordinarily works in Great Britain under –

- a **contract of employment** (i.e. an employee), or
- any other contract by which the individual undertakes to do work or perform services personally for another party to the contract (i.e. they cannot send a substitute or sub-contract the work) and the individual is not undertaking the work as part of their own business.

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